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To: Microsoft ATR
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Subject: Microsoft Settlement

The settlement proposed by the US Department of Justice in the civil anti-trust action they have brought against Microsoft is badly flawed. This remedy does nothing to prevent Microsoft from leveraging its monopoly on operating system software to give the company's other software a (large) advantage over its competitors.

The Department of Justice has an obligation to enforce effective remedies with respect to Judge Jackson's findings of fact as affirmed by the US Court of Appeals for the DC Circuit. At the very least, they should:
a) allow OEM's to bundle whichever software they like with Windows and b) prevent Microsoft from changing features of Windows to promote their own application software or middleware to extend their illegal monopoly.

Let me draw an analogy. Imagine that the government left the building of the interstate highway system up to private enterprise. For a while, many different companies built different kinds of roads and different kinds of cars that could run on those roads. (Imagine that some roads had different kinds of grooves that only certain tires could fit into.) Over time, a dominant kind of road emerged. Many companies built cars that would run on those roads and not others. Therefore, one type of road, built by one type of company, became dominant.

This is analogous to what happened in the computer industry in the 80s and early 90s. Many OS's existed, but eventually Microsoft's OS became dominant. There is one key difference, however. Microsoft could roll out a new version of its OS every two or three years, and people would quickly upgrade! This is equivalent to the road company being able to build roads so quickly that they could replace all the roads in the US every two or three years.

Now imagine this road-building company started building cars. Of course, it would design the roads so that they would work best with its cars, and so that they would make other competitors' cars run more slowly. Their cars would enjoy a huge competitive advantage.

This is roughly equivalent to the situation in the desktop computer software market today. Except things are even worse! (This is due to the speed and ease with which software can be distributed.) Netscape once made the best "browser" cars, for free, but you had to pick them up at its store (by downloading it). Microsoft starting parking free browser cars all over the roads right up in front of people's driveways. Why would anyone want to go pick up a "browser" from Netscape when another one from Microsoft was right there at hand? Netscape tried to park its "browser cars" on to the roads, too, but Microsoft prevented them from doing that. (By preventing

OEM's from bundling Netscape with Windows.)

Was that a huge advantage? Yes.

Will Microsoft be prevented from doing that in the future by the proposed remedy? No.

For example, Microsoft is still allowed to prohibit OEMs from changing Windows at all -- they can still park their free cars right in front of every house.

Why would anyone use any other car?

The best remedy in this case would be a market-based one -- a capitalistic remedy that separates two different companies from each other so that they can compete rather than collude. In short, that would be Judge Jackson's proposed remedy.

Thanks for reading this.

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